

P A T E N T

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No.:	10/630,307	Confirmation No.:	9064
Applicant :	Joel M. WasDyke		
Filed :	July 30, 2003		
TC/A.U. :	3734		
Examiner :	Vy Q. Bui		
Title :	SELF-CENTERING BLOOD CLOT FILTER		
Docket No. :	1001.1681101		
Customer No. :	28075		

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop AF  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

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By \_\_\_\_\_

  
JoAnn Lindman

Applicants have carefully reviewed the Final Office Action dated October 17, 2007 and the Advisory Action dated January 29, 2008. Currently, claims 13-24 and 31-33 are pending in the application, all of which have been rejected. Applicants hereby request a pre-appeal conference and file this pre-appeal conference brief concurrently with a Notice of Appeal. Applicants submit that the Examiner's rejections contain at least the following clear errors and/or omissions of one or more essential elements needed for a *prima facie* rejection.

Claims 13-15, 23-24 and 31-33 have been rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Lefebvre (U.S. Patent No. 5,108,418). Applicants respectfully traverse the rejection.

Turning to claim 13, which recites:

13. (previously presented) A blood clot filter, comprising:

a plurality of filter legs each having a proximal section and a distal section, each of said plurality of elongated filter legs formed at least in part of a shape-memory material actuatable between a centering configuration and a filtering configuration, the centering configuration of said plurality of elongated filter legs including a bend region forming a pad configured to abut the vessel wall to center the filter when placed within a blood vessel, wherein each of the bend regions of each of the filter legs extends radially outward from the central longitudinal axis at equidistant intervals.

Nowhere does Lefebvre appear to teach or suggest “the centering configuration of said plurality of elongated filter legs including a bend region forming a pad configured to abut the vessel wall to center the filter when placed within a blood vessel, wherein each of the bend regions of each of the filter legs extends radially outward from the central longitudinal axis at equidistant intervals”, as recited in claim 13.

In the Advisory Action, the Examiner states “the centering configuration as recited in the claims 13 and 23 is the configuration of Lefebvre-5,108,418 filter 1 in an introduction sheath (Lefebvre-‘418: col. 2, lines 60-65), wherein six legs 3 are squeezed together inside the introduction sheath in a radial direction toward the center line of Lefebvre-‘418 filter 1”. (Emphasis added). Accordingly, it appears that the Examiner is asserting that the centering configuration is when the filter is inside a sheath. In such a configuration, clearly the filter does not include a bend region forming a pad configured to abut the vessel wall to center the filter when placed within a blood vessel, wherein each of the bend regions of each of the filter legs extends radially outward from the central longitudinal axis at equidistant intervals, as recited in claim 13. Further, nowhere does Lefebvre appear to teach or suggest the claimed bend regions forming a pad. Therefore, for at least these reasons, claim 13 is believed to be patentable over Lefebvre and Applicant respectfully requests withdrawal of the rejection. For similar reasons and others, claims 14 and 15, which depend from claim 13, are believed to be patentable over Lefebvre.

Turning to claim 23, which recites:

23. (previously presented) A blood clot filter, comprising:
  - an apical head; and
  - a plurality of filter legs each having a proximal section and a distal section, the distal section of each filter leg including attachment means configured to secure the blood clot filter to the wall of a blood vessel;

wherein each of said plurality of filter legs is formed at least in part of a shape-memory material actuatable between a centering configuration and a filtering configuration, the centering configuration of each filter leg including a bend region forming a pad configured to abut the vessel wall to center the filter when placed within a blood vessel, wherein each of the bend regions of each of the filter legs extends radially outward from the central longitudinal axis at equidistant intervals.

As discussed previously, nowhere does Lefebvre appear to teach or suggest “the centering configuration of each filter leg including a bend region forming a pad configured to abut the vessel wall to center the filter when placed within a blood vessel, wherein each of the bend regions of each of the filter legs extends radially outward from the central longitudinal axis at equidistant intervals”, as recited in claim 23. Therefore, for these reasons and others, claim 23 is believed to be patentable over Lefebvre and Applicant respectfully requests withdrawal of the rejection.

Turning to claim 24, which recites:

24. (previously presented) A blood clot filter, comprising:  
an apical head defining a central longitudinal axis; and  
a plurality of filter legs each having a proximal section and a distal section, the distal section of said filter legs including attachment means configured to secure the blood clot filter at a first location along the wall of a blood vessel;

wherein each of said plurality of filter legs is formed at least in part of a shape-memory material actuatable between a centering configuration and a filtering configuration, the centering configuration of each filter leg including a bend region forming a pad configured to abut the wall of the blood vessel at a second location spaced longitudinally apart from the first location to center the filter within the blood vessel, wherein each of the bend regions of each of the filter legs extends radially outward from the central longitudinal axis at equidistant intervals.

As discussed previously, nowhere does Lefebvre appear to teach or suggest “the centering configuration of each filter leg including a bend region forming a pad configured to abut the wall of the blood vessel at a second location spaced longitudinally apart from the first location to center the filter within the blood vessel, wherein each of the bend regions of each of the filter legs extends radially outward from the central longitudinal axis at equidistant intervals”, as recited in claim 24. Therefore, for these reasons and others, claim 24 is believed to be patentable

over Lefebvre and Applicant respectfully requests withdrawal of the rejection. For similar reasons and others, claims 31-33, which depend from claim 24, are believed to be patentable over Lefebvre.

In view of the foregoing, the rejection of claims 13-15, 23-24 and 31-33 under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Lefebvre is believed to be clear error and Applicants respectfully request withdrawal of the rejection.

Claims 16-17 and 19-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lefebvre in view of Simon (U.S. Patent No. 4,425,908); claim 18 was rejected under 35 U.S.C. § 103(a) in view of Lefebvre in view of Simon and further in view of Boylan et al. (U.S. Patent No. 6,602,272); and claim 22 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Lefebvre as applied to claim 13 above in view of Mazzocchi et al. (U.S. Patent No. 6,949,103). For similar reasons given above, and because these claims depend from claim 13, Applicant believes that claims 16-22 are patentable over the cited references and respectfully request that the Examiner's rejection be withdrawn.

In view of the foregoing, all pending claims are believed to be in a condition for allowance. Withdrawal of the rejections is respectfully requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

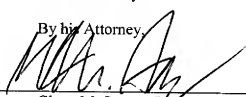
Respectfully submitted,

Joel M. WasDyke

By his Attorney,

Date:

March 13, 2008

  
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